

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DEANA COLEMAN,

Plaintiff,

V.

AMERICAN COMMERCE INSURANCE
COMPANY, a foreign insurance company,

Defendant.

Case No. 09-5721RJB

ORDER GRANTING
DEFENDANT'S MOTION FOR
RECONSIDERATION

This matter comes before the court on Defendant's Motion for Reconsideration (Dkt. 78).

The court is familiar with the records and files herein and all documents in support of and in opposition to this motion. For the reasons stated below, the motion should be granted under the conditions indicated.

First, the issue of a defense medical exam of plaintiff has spawned a great deal of paperwork and rhetoric. The bottom line is whether the fair disposition of this case calls for the opportunity for defendants to have plaintiff examined. In the interests of a search for the truth, such an examination is appropriate.

The Federal Rules of Civil Procedure and the court's Scheduling Orders were not followed in this case. However, a late examination of plaintiff should not delay trial preparation or trial and the court sees no real prejudice to plaintiff if plaintiff, who is seeking damages from defendant, is subjected to such an examination.

It appears to the court that, to rule otherwise, would be to put the full and fair examination of the facts in this case aside in favor of strict application of the rules and would have the effect of punishing counsel and their client for a comparatively minor error by counsel.

1 For those reasons, it is now ORDERED that counsel and plaintiff should forthwith
2 arrange for the medical examination of plaintiff by an expert of defendant's choice, to be held
3 within the next two weeks. The reporting expert should file his or her report as required by the
4 rules, within two weeks of the date of the examination, and counsel should arrange for plaintiff's
5 deposition of said defense expert within two weeks of the issuance of the report.

6 IT IS SO ORDERED.

7 The Clerk is directed to send copies of this Order all counsel of record and any party
8 appearing *pro se* at said party's last known address.

9 DATED this 9th day of August, 2010.

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12 Robert J. Bryan
13 United States District Judge
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